

EXHIBIT**E**

D129947465

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COURT OF COMMON PLEAS**HAMILTON COUNTY, OHIO****FILED**

2020 SEP 30 P 1:04

CLERK OF COURTS
HAMILTON COUNTY, OH
COMMON PLEAS

CITY OF CINCINNATI,

Plaintiff,

vs.

JOHN KLOSTERMAN, ET. AL.

Defendants

Case No.: A1905588

**DEFENDANT'S MOTION TO AMEND
OR ALTER JUDGMENT****DEFENDANT'S MOTION TO AMEND OR ALTER JUDGMENT**

Plaintiff, JOHN KLOSTERMAN, files this Motion to Amend Order and Judgment pursuant to FED. R. CIV. P. 52(b), 59(e) or, in the alternative, FED. R. CIV. P. 60 and respectfully asks the Court to amend its Order and Judgment dismissing as moot his claims against plaintiff, THE CITY OF CINCINNATI, and to re-open the case for the purpose of adjudicating his claim for damages resulting from losses he has suffered through this Plaintiff's appointment of a corrupt and clearly self-serving Receiver. In support of this Motion, Plaintiff KLOSTERMAN states the following:

Facts

On September 16th, 2020, the Court issued its Order and Judgment, denying Defendants' Motion to Replace Receiver and Tri-State Organization, allegedly granting this order based on the merits of Plaintiff's Memorandum in Opposition to Defendant's Motion to Replace Receiver.

1 However, this Court's order, was very vague and simply stated that defendant's motion was not
2 "well-taken."

3 The issue that arises is that this Defendant's request for injunction has not been ruled on
4 and Defendant further asserts should the merits of his allegations be weighed thoroughly and
5 thoughtfully again by the officers of this Court, then he believes that his arguments will be seen
6 in a substantially more fair and unbiased light. Defendant, KLOSTERMAN now seeks an order
7 from the Court reopening his case awarding him the injunction he initially sought, which
8 included vacation of the Receiver along with his appointed management company, Tri-State
9 Organization.
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12 Argument

13 I. Standard of Review

14 Under FED. R. CIV. P. 59(e), a party may file a motion to alter or amend a judgment
15 no later than 15 days after entry of the judgment. Motions to amend or alter the
16 judgment should be granted when there exists "a manifest error of law or fact, so as to
17 enable the court to correct its own errors and thus avoid unnecessary appellate
18 procedures." *Meghani v. Shell Oil Co.*, 2000 U.S. Dis. LEXIS 17402 *2, (S.D. Tex.
19 Aug. 24, 2000) (citing *Divane v. Krull Elec. Co., Inc.*, 194 F.3d 845, 848 (7th Cir.
20 1999) (internal citations omitted)); see also *Kyle v. Texas*, 2006 WL 3691204 (W.D.
21 Tex. Oct. 31, 2006) (granting a motion to reconsider under FED. R. CIV. P. 59(e) and
22 reversing the court's previous denial of a motion to remand based on a manifest error
23 of law)). A court has discretionary authority to amend its prior decision. See *Weber v.*
24 *Roadway Exp., Inc.*, 199 F.3d 270, 276 (5th Cir. 2000). Fed. R. Civ. P. 60(a) further
25 provides that "[t]he court may correct a clerical mistake or a mistake arising from
26 oversight or omission whenever one is found in a judgment, order, or other part of the
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record. The court may do so on motion or on its own, with or without notice.” Under Fed. R. Civ. P. 60(b), the Court may relieve a party from a final judgment or order if a mistake was made or any other reason that justifies relief. 11 To the extent that the Court’s Order Concerning Pending Motions was intended to incorporate or substitute as findings of fact and conclusions of law, Defendant asks the Court to amend its findings and conclusions to correct.

II. The Court’s Order and Judgment did not Address State Defendants’ request for injunction and vacation of the Receiver along with Tr-State Organization

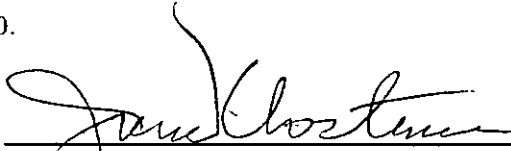
See 42 U.S.C. § 2000d; see also *Alexander v. Sandoval*, 532 U.S. 275, 279 (2001) (holding that private individuals may sue under Title VI to obtain both injunctive relief and damages). Article III of the U.S. Constitution prohibits courts from ruling on nonjusticiable controversies, including cases in which the controversy has become moot. See *Flast v. Cohen*, 392 U.S. 83, 95 (1968). However, a case involving a claim for relief that has yet to be determined is not moot. See *Gulf Pub. Co. v. Lee*, 679 F.2d 44, 46 n.2 (5th Cir. 1982) (“Claims for relief ordinarily prelude a finding of mootness unless the parties have settled the case.”); see also 13A Wright, Miller & Cooper, *Federal Practice and Procedure* § 3533.3 at 262 (2d ed. 1984) (“Relief should be denied on the merits, not on grounds of mootness.”). Even in cases where one of the several issues presented becomes moot, the remaining live issues fulfill the constitutional requirement of a case or controversy. *Powell v. McCormack*, 395 U.S. 486, 497 (1969). manifest errors of law and fact consistent with the arguments in this motion. Under FED. R. CIV. P. 52(b), a motion to amend findings of fact and conclusions of law must be predicated on the need to correct manifest errors of law or fact. *Fontenot v. Mesa Petroleum Co.*, 791 F.2d 1207, 1219 (5th Cir. 1986). A district

1 court should correct its findings and conclusions when its judgment is not guided by
2 sound legal principles such as: 1) when a court relies on clearly erroneous fact
3 findings; 2) relies on erroneous conclusions of law; or 3) misapplies its factual or
4 legal conclusions. Alcatel U.S.A., Inc. v. DGI Techs, Inc., 166 F.3d 772, 790 (5th Cir.
5 1999).

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7 As discussed in Defendant's Motion to Replace Receiver and Tri-State
8 Organization, Defendant KLOSTERMAN asserted several facts that were either
9 blatantly not ruled on or simply ignored by this court. The allegations are as follows:

- 10 1. *The manner in which the City obtained and levied fines and penalties was a result*
11 *of a conspiracy in which the city and its employees did utilize their positions*
12 *under color of authority to amass overwhelming fines upon the Defendant (excess*
13 *of \$550,000) that once the City obtained their judgment, the Defendant would be*
14 *forced to divest of his properties. Defendant asserted these actions were theft by*
15 *deception, misrepresentation, and fraud.*
- 16 2. *Defendant asserts the Court's use of the receiver statute R.C. ss2735.01(A)(1)*
17 *was never intended to allow the sovereign City of Cincinnati to force the sale of*
18 *private property for accumulated fines and levies. He further asserts the intent of*
19 *this statute was to protect interested parties such as "partners and creditors" and*
20 *only insofar, as "the property is in danger of being lost or removed or materially*
21 *injured.*
- 22 3. *By denying the Defendant his real property rights through the application of the*
23 *receiver statute in this manner is further evidence of the singling out and*
24 *disparate treatment of said Defendant by the Plaintiff. In this matter, there are no*
25 *tenants complaining, all utilities are on, repairs are made in a timely manner and*
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Dated this 30TH day of September, 2020.



Plaintiff in Pro-Se

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D132711373

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO



CITY OF CINCINNATI,

Plaintiff,

v.

JOHN KLOSTERMAN et al.,

Defendants.

: Case No. A 1905588
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:
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: Judge Wende C. Cross
:
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: ENTRY DENYING DEFENDANT'S
: MOTION TO AMEND OR ALTER
: JUDGMENT
:

This matter having come before the Court pursuant to the Defendant's Motion to Amend or Alter Judgment (the "Motion"), and the Court upon consideration thereof, and being fully advised in the Premises, finds said Motion not well taken. For good cause shown, the Court **DENIES** the Motion.

IT IS SO ORDERED.

Date: 8/17/2021

Wende C. Cross
JUDGE WENDE C. CROSS